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PROGRAMME BUDGET FOR THE BIENNIUM 1994-1995

Conditions of service and compensation for officials other than Secretariat officials

Members of the International Court of Justice

Seventh report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on conditions of service and compensation for members of the International Court of Justice (ICJ) (A/C.5/48/66). Pursuant to General Assembly resolution 45/250 of 21 December 1990, the report reviews not only the salaries of the members of the Court, but also the allowances and compensation provided for in Article 32, paragraphs 2, 3 and 4, of the Statute of ICJ, and the retirement pensions given to members of the Court. During its consideration of the question, the Advisory Committee met with the representatives of the Secretary-General and the Court, who provided additional information.

2. Remuneration of members of the Court, with background information, is discussed in section II of the Secretary-General's report (paras. 3-10); the discussion is supported by tables 1 (changes in remuneration of members of the Court, Secretariat officials and members of the United Nations bodies, 1991-1993) and 2 (movement in gross emoluments of officers of national judiciaries, the Court of the European Communities and the Islamic Republic of Iran-United States Claims Tribunal, 1991-1993) as well as information on other benefits given in paragraph 9 of the Secretary-General's report. In paragraph 10 of his report, the Secretary-General states, inter alia, that "a communication from the members of the Court has been received proposing that the annual emoluments of the members of ICJ of $145,000 be maintained in real terms" and he proposes, therefore, that the emoluments of the members of the Court be increased from $145,00J to $154,425 per annum to reflect a 6.5 per cent increase in the cost of living from January 1991 to August 1993.

3. In this connection, the Advisory Committee recalls the observations and recommendations made during its last triennial review of the subject in December 1990. As reflected in paragraphs 12 and 13 of its eleventh report on the programme budget for the biennium 1990-1991, 1/ the Advisory Committee agreed with the Secretary-General's conclusion that a structural change in the level of the emoluments of the members of the Court was justified at that time and recommended that the annual salary of members of the Court be set at $145,000, effective 1 January 1991, with the next review to take place no later than three years from 1 January 1991. While agreeing to an increase in the annual salary of members of the Court from $101,750 to $145,000 (i.e. 42.5 per cent growth), the Committee recommended that "there would be no cost-of-living adjustment or supplement as is currently the case. Nor would there be a post adjustment factor ...".

4. The Committee believes that the current review should take into account all relevant factors, including not only cost-of-living increases but also fluctuations in the relationship of the United States dollar to the Netherlands guilder, bearing in mind that, while salaries are stated in United States dollars, they are paid in guilders. The Advisory Committee's analysis shows that the strengthening of the United States dollar vis-à-vis the guilder has more than offset the increases in the local cost of living during the period in question. Under the circumstances, the Advisory Committee is of the opinion that at this stage the annual salary of members of the Court should be maintained at its current level of $145,000. The Committee recommends that the next review take place in two years and be carried out hereafter on a biennial basis.

5. In this connection, the Committee recalls that, in the previous report, it had recommended that "... a measure of protection against currency fluctuation should be provided, through the application of a local currency floor and ceiling measure, similar to that now in place". 2/ The Committee recommends continuation of this arrangement, as proposed in paragraph 15 of the Secretary-General's report.

6. Section IV of the Secretary-General's report (paras. 16-21) deals with special allowances of the President and of the Vice-President when acting as President. The Secretary-General indicates in paragraph 21 of the report that, on the occasion of 1990 review, he proposed, in the light of movements in annual base salary and taking into account the cost of living at The Hague, to increase the special allowances to $20,000 per year and $115 a day ($11,500 maximum). The Secretary-General justifies the renewed proposal by the fact that "... the calls on these allowances has increased commensurate with the rapid increase in the caseload of the Court". No additional new information was provided in order to justify the proposal. The Advisory Committee recalls that it recommended that the special allowances should not be increased. The Committee maintains its position on the subject.

7. In paragraph 30 of his report, the Secretary-General proposes that, as was decided by the General Assembly in its resolution 45/250, the increase in the level of the education grant, including that for disabled children, applicable to staff in the Professional and higher categories by Assembly resolution 47/216 should be extended, under the same conditions, to the members of the Court. The

Secretary-General also suggests that provision continue to be made for one return journey per year from the place of scholastic attendance when outside the Netherlands to The Hague. The Advisory Committee recommends that these proposals be approved. At the same time the Committee does not support the proposal contained in paragraph 31, that any changes in the grant consequent upon the 1994 review should be applied to the members of the Court on a provisional basis, prior to the next review of emoluments and conditions of service of members of the Court. In view of the recommendation of the Committee contained in paragraph 4 above that the conditions of service of the members of ICJ be carried out on a biennial basis, should there be a need to adjust the level of education grant to the level approved by the General Assembly, this question should be considered in the framework of the next review of the conditions of service of the judges.

8. The question of pensions is discussed in section VII of the Secretary-General's report; as stated therein, "it is the conclusion of the Court that the pre-1991 regime under which pensions reflected a percentage of salary should be restored. Judges who have served a full term should receive 50 per cent of their salary and judges who have served two full terms should receive two thirds of their salary". The Secretary-General's position on this conclusion of the Court is outlined in paragraph 37, namely that "... it would be appropriate for the pension of the members of the Court to be established by direct reference to national and international judiciaries, and hence to annual salaries". Paragraph 38 of the report contains additional information on the proposal. The Secretary-General has also proposed that surviving spouses receive a pension of 60 per cent of the spouse's pension and that, in the case that a surviving spouse remarries, that spouse be paid a lump sum equal to twice the amount of the spouse's current annual benefit, as a final settlement.

9. As indicated in paragraph 4 above, in its last review of the conditions of service of the judges, which took place in December 1990, the Committee had recommended a significant increase in the annual salary of the members of the Court. In order to avoid a disproportionate increase in pension, the Committee recommended that the pensions of the judges should no longer be expressed as a percentage of base salary and should rather be set at $50,000 a year (a 22 per cent increase). The Advisory Committee believes that at this time it is not necessary to recommend a change in the pension entitlements of the members of the Court.

10. In view of the above comments and observations, the Advisory Committee recommends that the General Assembly approve the proposal on the education grant contained in paragraph 30 of the report of the Secretary-General and the related additional requirements of $30,000 for the biennium 1994-1995. The Advisory Committee concurs with the Secretary-General that these additional requirements relate to inflation and should be treated outside the procedures related to the contingency fund, as provided for in paragraph 11 of annex I to General Assembly resolution 41/213.

Notes

1/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 7 (A/45/7/Add.10).

2/ Ibid., para. 13.